

59-12-128 Amnesty.

- (1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:
 - (a) a tax, fee, or charge under:
 - (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (iii) Section 19-6-714;
 - (iv) Section 19-6-805;
 - (v) Chapter 26, Multi-Channel Video or Audio Service Tax Act;
 - (vi) Section 69-2-5;
 - (vii) Section 69-2-5.5;
 - (viii) Section 69-2-5.6; or
 - (ix) this chapter;
 - (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
 - (c) interest on a tax, fee, or charge described in Subsection (1)(a).
- (2)
 - (a) Except as provided in Subsections (2)(b) and (3) and subject to Subsections (4) and (5), the commission shall grant a seller amnesty if the seller:
 - (i) obtains a license under Section 59-12-106; and
 - (ii) is registered under the agreement.
 - (b) The commission is not required to grant a seller amnesty under this section beginning 12 months after the date the state becomes a full member under the agreement.
- (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
 - (a) the seller collects;
 - (b) the seller remits to the commission;
 - (c) that the seller is required to remit to the commission on the seller's purchase; or
 - (d) arising from a transaction that occurs within a time period that is under audit by the commission if:
 - (i) the seller receives notice of the commencement of the audit prior to obtaining a license under Section 59-12-106; and
 - (ii)
 - (A) the audit described in Subsection (3)(d)(i) is not complete; or
 - (B) the seller has not exhausted all administrative and judicial remedies in connection with the audit described in Subsection (3)(d)(i).
- (4)
 - (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a seller under this section:
 - (i) applies to the time period during which the seller is not licensed under Section 59-12-106; and
 - (ii) remains in effect if, for a period of three years, the seller:
 - (A) remains registered under the agreement;
 - (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and
 - (C) remits to the commission the taxes, fees, and charges the seller collects in accordance with Subsection (4)(a)(ii)(B).
 - (b) The commission may not grant a seller amnesty under this section if, with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:

- (i) fraud; or
 - (ii) an intentional misrepresentation of a material fact.
- (5)
 - (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.
 - (b) Notwithstanding Section 59-1-1410, for purposes of requiring a seller to pay an amount in accordance with Subsection (5)(a), the time period for the commission to make an assessment under Section 59-1-1410 is extended for a time period beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

Amended by Chapter 285, 2011 General Session

Amended by Chapter 309, 2011 General Session